

## **Section 1511 - Construction Board of Appeals**

**1511.01 Establishment.** The Council does hereby establish the Construction Board of Appeals (the "Board") pursuant to Minnesota State Building Code ("MSBC"), Chapter 1300.0230, adopted by Section 410 of this Code.

**1511.02 Powers and Duties.** The Board shall:

A. Fulfill the duties imposed upon it by MSBC Chapter 1300.0230.

B. Consider appeals from any order, requirement, permit, decision, refusal or determination made by the Building Official or the Sanitarian in the application or interpretation of this Code regulating (i) construction, alteration, moving or demolition of buildings, (ii) the construction, installation, alteration or removal of plumbing, gas piping or equipment, water softening or filtering equipment, (iii) the installation, alteration or removal of electrical wiring and equipment, or (iv) excavations under Section 830. The Board shall not hear any appeal from, nor have any jurisdiction over, actions taken by any official of the City or under Section 470 of this Code, or any section of this Code enforced by means of the procedures set forth in Section 470 of this Code.

C. Study and review new types of materials and methods of construction, and advise the Building Official and the Council as to the suitability of alternate materials and types of construction to assist in progressive development of the provisions of the building, plumbing, heating, gas piping, and electrical codes or sections of this Code, and to make recommendations relative to the Codes.

D. Study and review from time to time the building, plumbing, heating, gas piping, and electrical codes or sections of this Code and similar code provisions applicable in communities surrounding the City and such other codes as may come to their attention, and recommend to the Council such new legislation as the Board may deem desirable.

E. Consider matters referred to the Board by the Council or by the Building Official and make recommendations relative to them.

**1511.03 Waiver of Requirements.** In considering any appeal, the Board, if not prohibited by State Law, may waive any requirement of any of the Code provisions therein referred to, but only if the reason for such requirement does not exist because of the unusual use, location or type of construction of the structure, or if it is demonstrated to the satisfaction of the Board that the purpose of such requirement is met by other means or methods. The Board, in granting any waiver of water or sewer connections required by Section 445 of this Code, shall also make the findings of hardship and non-detriment required by Subsection 445.05 of this Code, and shall condition its waiver on delivery to the City of the agreement required by Subsection 445.05.

**1511.04 Appeals.**

A. **To Board.** Appeals to the Board authorized by Subsection 1511.02 shall be made by filing a written appeal with the Building Official within 30 days of the date of the order, requirement, permit, decision, refusal or determination being appealed. The appeal shall fully state the order, requirement, permit, decision, refusal or determination appealed from, the facts of the matter, the date thereof, and the mailing address of the appellant. Upon the filing of such appeal, the Board shall set a hearing date, give notice of the date, hold a hearing, provide for a record of its proceedings and make its order on the record, all in the same manner as provided for appeals to the Zoning Board of Appeals as set out in Section 850 of this Code.

B. **To Council.** Appeals from any order or decision of the Board may be taken to the Council, and shall be heard and decided by the Council, in the same manner as appeals from decisions of the Zoning Board of Appeals as set out in Section 850 of this Code.

**1511.05 Membership.** The Board shall consist of five regular members who are qualified by experience and training to pass upon matters pertaining to building construction. The Building Official shall be an ex-officio member of and shall act as secretary to the Board, but shall have no vote on any matter before the Board.

**1511.08 Change of Name.** All references in all sections of this Code to the Building Construction Appeals Board or to the Building Construction Codes Commission shall mean and refer to the Board of Appeals created by MSBC Chapter 1300.0230, and called the Construction Board of Appeals in this Code.

*History: Ord 407 adopted 1-16-80; amended by Ord 407-A1 8-5-81, Ord 1995-1 3-29-95; Ord 2004-04, 4-29-04; Ord 2011-02 deleted Section 400 replaced by Section 1511*

*Cross Reference: Sections 410, 420, 445, 470, 850, 1500; Subsections 445.02, 445.05*